

SEYFARTH SHAW LLP
Joseph J. Orzano (SBN 262040)
E-mail: jorzano@seyfarth.com
Seaport East, Suite 1200
Two Seaport Lane
Boston, MA 02210
Telephone: (617) 946-4800
Facsimile: (617) 946-4801

Matthew Catalano (*pro hac vice*)
Email: mcatalano@seyfarth.com
620 Eighth Avenue
New York, NY 10018
Telephone: (212) 218-5500
Facsimile: (212) 218-5526

Attorneys for Defendant
KING'S HAWAIIAN BAKERY WEST, INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

DIEISHA HODGES and ROXANNE
COLAMARINO, individually, and on behalf
of all others similarly situated,

Plaintiffs,

v.

KING'S HAWAIIAN BAKERY WEST, INC.,

Defendant.

Case No. 4:21-cv-04541-PJH

**DEFENDANT KING'S HAWAIIAN
BAKERY WEST, INC.'S OBJECTION
TO PLAINTIFFS' NOTICE OF
VOLUNTARY DISMISSAL**

1 Defendant King's Hawaiian Bakery West, Inc. ("King's Hawaiian") objects to Plaintiffs
2 Dieisha Hodges and Roxanne Colamarino ("Plaintiffs") Notice of Voluntary Dismissal, ECF No.
3 33 ("Plaintiffs' Notice").

4 Plaintiffs' Notice purports to "voluntarily dismiss" this action. But this cannot be: the
5 action is already dismissed. The Court's November 8, 2021 order granting King's Hawaiian's
6 motion to dismiss is clear: "The court GRANTS defendants' motion to dismiss plaintiff's
7 complaint with leave to amend. Plaintiffs shall have 28 days from the date of this order to file an
8 amended complaint curing the deficiencies noted in this order." ECF No. 31 ("Order") at 15. Today
9 is the last day for Plaintiffs to amend the Complaint, and they have evidently declined to do so,
10 instead purporting to file a voluntary dismissal "[p]ursuant to Federal Rule of Civil Procedure
11 41(a)(1)(A)(i)." Plaintiffs' Notice at 1. It is too late for such a notice. Dismissal by the Court has
12 already occurred, and there is nothing for Plaintiffs to "voluntarily" dismiss. Plaintiffs should not
13 be permitted to undermine this Court's order, presumably to attempt to file their claims again at
14 some unspecified future time, or even in some other jurisdiction.

15 King's Hawaiian respectfully requests that the Court reject Plaintiffs' Notice and instead
16 dismiss this action with prejudice. In the alternative, should the Court be inclined to permit
17 Plaintiffs to voluntarily dismiss the action, King's Hawaiian respectfully requests the opportunity
18 to fully brief the issue.

19 DATED: December 6, 2021

SEYFARTH SHAW LLP

20 By: /s/ Joseph J. Orzano

21 Joseph J. Orzano

22 Attorneys for Defendant
23 King's Hawaiian Bakery West, Inc.